

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5753

PETITION OF CYNTHIA STOCK AND LAWRENCE RUTLEDGE

(Hearing held May 8, 2002)

OPINION OF THE BOARD

(Effective date of Opinion, June 14, 2002)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for variances from Sections 59-C-1.323(a) and 59-B-3.1. The petitioners propose to construct a covered porch that requires a variance of 4.20 feet as it is within 22.80 feet of the established front building line and a one-story addition that requires a variance of 4.20 feet as it is within 25.80 feet of the established front building line. The established building line for the covered porch is twenty-seven (27) feet and the established front building line for the one-story addition is thirty (30) feet.

Joanne Weiss and Robalee Chapin, neighbors, appeared with the petitioners in support of the variance request.

The subject property is Lot 32, Block B, North Sherwood Forest Subdivision, located at 9227 Whitney Street, Silver Spring, Maryland, in the R-60 Zone (Tax Account No. 01345405).

Decision of the Board: Requested variances **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a 7.2 x 9.5 foot foyer and covered porch.
2. The petitioners testified that Whitney Road slopes and that their lot is located at the crown of the slope. The petitioners testified that as a result of the slope, their property receives excessive water when it rains, which floods their garage area. The petitioner testified that the residence does not have a covered front entry and that they propose to cover the existing front stoop and create a small entry area.
3. The petitioners testified that the grade drops from the front of their house to the front of their garage approximately 14 feet and that if the grades were the same, a covered front entrance would not be necessary.
4. The petitioners testified that they have spoken with their neighbors and that their neighbors started a petition to support their variance request. Letters of support were entered in the record as Exhibit Nos. 10.1-10.3.

FINDINGS OF THE BOARD

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variances must be denied. The requested variances do not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.

The Board finds that the petitioners' lot has no exceptional topographical or other conditions that are not shared with the adjoining properties. The Board finds that the petitioners' lot is similar in shape and size to the other lots in the neighborhood. See, Exhibit No. 8.

The Board finds that the circumstance of the grade change testified to by the petitioner is not linked to the need for the variance.

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variances of 4.20 feet from the required twenty-seven (27) foot established front building line for the construction of a covered porch and of 4.20 feet from the required thirty (30) foot established front building line for the construction of a one-story addition are denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Donna L. Barron, Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 14th day of June, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.